

REMARKS

Initially, Applicants would like to express appreciation to the Examiner for returning a copy of the IDS, submitted on April 2, 2001, and for acknowledging consideration of the references cited in that IDS.

The Final Office Action, mailed October 4, 2005, considered claims 1-23. Claims 1, 3, 4, 5, 6, 7, 13, 15, 16, 17 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Surniolo et al. (U.S. Patent No. 6, 154,461) in view of Eng et al. (U.S. Patent No. 5,958,018) and Honkasalo (U.S. Patent No. 6,094,426). Claims 2, 11, 12, 14 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Surniolo et al in view of Eng and Honkasalo, in further view of Koyama (U.S. Patent No. 5,654,957). Claims 10 and 22 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

By this paper claims 1 and 23 have been amended. The amendments made by this paper do not add any new subject matter to the application. Support for the amendments is found in the disclosure of the specification, including, but not limited to the disclosure found in paragraphs 1, 10, 12, 16-18, 40 and 44. Other paragraphs, including, but not limited to paragraphs 3-7 also provide relevant context. No other claims have been amended, cancelled or added, such that claims 1-23 remain pending for reconsideration, of which claims 1, 11-13 and 23 are the only independent claims at issue.

As reflected above, in the claims listing, the present invention is generally directed to embodiments in which a wireless mobile communication station selectively establishes and enables packet data sessions with an originator attempting to push data to the mobile station and which is dependent upon the identity of the originator acquired at the wireless mobile communication station. Claim 1, for example, is directed to a corresponding method recited from the perspective of the wireless mobile communications station. Claims 11 and 12 are directed to corresponding computer program products and devices that are configured for implementing the method of Claim 1. Claims 13 and 23 are also directed to similar methods and systems, respectively, which include elements corresponding to both the mobile communication station as well as the origination server.

Sturniolo, the primary reference of record, was used to reject the claims in combination with the asserted teachings of Eng, Honkasalo and Koyama.¹ Applicants respectfully traverse the rejections made in this regard and submit that the combined art fails to anticipate or make obvious the claimed invention.

While the present invention is generally directed to embodiments for selectively limiting or controlling, at a mobile station, the transmission of data pushed from an originating server, the cited art fails to even address or provide a solution for such a problem. In fact, to the contrary, Sturniolo and Eng are both generally directed to embodiments for maintaining an established connection between mobile devices, after a connection has already been established, and without being disrupted by the transition, migration and registration with new and different access points. (Sturniolo: Abstract, Col. 3, ll. 60-65, Col. 5, ll. 59-63, Col. 6, ll. 10-14) (Eng: Abstract, Col. 2, ll. 63-67).

It is asserted, in the last action, that Sturniolo discloses that a wireless station registers with an access point and that the data packets (presumably used in such a registration) includes a source address that identifies the originator, which, it is asserted, reads on the claimed embodiments. Applicants respectfully disagree. First of all, it does not even appear that most of the referenced disclosure (Col. 3, ll. 23-25) corresponds with this assertion. To the contrary, the cited disclosure in Col. 3 merely indicates that Sturniolo's embodiments include a plurality of LANs having network backbones and at least one access point which the mobile terminals register to. Nevertheless, Applicants acknowledge that Figure 3 does correspond to disclosure that indicates that some packets include "a source address (SA) field which identifies the network address of the device transmitting the packet." (Col. 10, ll. 23-25). However, even this disclosure fails to disclose or suggest that a network address is used at any time by a destination mobile device to determine whether or not packet data reception from an originator is desired. This inadequacy of Sturniolo is generally acknowledged by the Examiner on page 2 of the last action.

¹ Koyama was only used to reject some of the dependent claims. Although the prior art status and some of the assertions made with regard to the cited art is not being challenged at this time, inasmuch as it is not necessary following the amendments and remarks made herein, which distinguish the claims from the art of record, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last office action, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application.

Indeed, contrary to the present invention, wherein the mobile device must determine whether it wishes to establish a connection and to receive data pushed from an originator, Sturniolo appears to simply presume that the mobile device wishes to communicate with the originators (devices) and such that they automatically register with the access points of the network using conventional techniques, irrespective of the originator/device addresses. (Col. 2, ll. 64-67; Col. 3, ll. 26-28; Col. 5, ll. 46-50; Col. 6, ll. 55-57, 65-67; Col. 7, ll. 40-43; and so forth).

To compensate for the inadequacies of Sturniolo, the rejection relies on an assertion that Eng “discloses a check as to whether an origination MAC address is registered upon receiving a MAC frame.”² With regard to this assertion, Applicants point out that the claims recite something different. In particular, the claims recite an element requiring a determination “at the wireless mobile communication station, based upon the identity [of the originator], whether or not packet data reception from said originator is desired.” Accordingly, even if Eng does disclose, *arguendo*, that an asserted check is made as to whether an origination MAC address is registered, Eng still fails to compensate for the inadequacies of Sturniolo. In particular, there is nothing in Eng that discloses or suggests a determination is made whether data from an originator is desired. Instead, the check in Eng is made to ‘determine whether the address belongs to a mobile device being serviced by the access point receiving the data.’ Accordingly, notwithstanding the assertion made above with regard to Eng, Applicants respectfully submit that the combination of Eng and Sturniolo still fail to disclose or suggest that a wireless mobile communication station determines whether or not packet data reception from said originator is **desired, based upon the identity of the originator**, as claimed.

Furthermore, Applicants respectfully point out that Eng and Sturniolo also fail to disclose or suggest some of the other recited claim elements, such that a data packet is received at a wireless mobile communication station from an originator that is attempting to push data to the mobile station, as claimed, or that the packet data session with the originator is only established upon determining that the packet data from the originator is desired, based on the identity of the originator, as claimed.

Newly cited Honkasalo also fails to compensate for the aforementioned inadequacies of Eng and Sturniolo. In fact, Honkasalo was only cited for the proposition that a **mobile** wireless device can perform functions related to receiving, acquiring and/or determining and establishing.

² Reference was directed to Fig. 15 and Col. 4, ll. 59-66.

Applicants respectfully submit, however, that even if this is true, that Honkasalo, even in combination with the other cited art fails to disclose or suggest the recited elements for receiving, acquiring, determining and establishing in the manner recited by the claims. In fact, Honkasalo, like Eng and Sturniolo, also fails to even relate to the problem or solution of the present invention. For example, instead of addressing the problem/solution corresponding to data being pushed to a client device and for enabling a client device to selectively control the sessions established with data originators, Honkasalo is directed to completely different embodiments in which a base station preemptively controls mobile station access to traffic channels in order to maximize the efficiency of packet data transmissions. (Abstract).

With regard to the foregoing references, which were the only references used to reject the independent claims, Applicants also respectfully submit that there would be no motivation to one of ordinary skill in the art, at the time of the invention, for combining the cited references. For example, much of the cited disclosure provided in Eng and Honkasalo corresponds directly to server functionality, and much of the cited disclosure provided in Sturniolo corresponds directly to the functionality and activity of a mobile device, such that it would not make sense to modify the device in Sturniolo to incorporate entirely different functionality corresponding to a server, as generally disclosed in Eng and Honkasalo.

With regard to this lack of motivation, Applicants also remind the Examiner that “a statement that modifications of the prior art to meet the claimed invention would have been “well within the ordinary skill of the art at the time the claimed invention was made” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references.” MPEP 2143.01. Furthermore, Applicants also point out that the motivation for making such a combination must come from the art itself; otherwise, such a combination represents impermissible hindsight. In particular, as stated by the MPEP § 2143, “The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in application’s disclosure.” MPEP 2143.

The Examiner does assert that a motivation would be present to combine the cited art. However, the asserted motivation appears questionable. For example, it is asserted that “a person of ordinary skill in the art would have been motivated to employ Eng et al in Sturniolo et al to identify,

a subset of mobile terminals such as those that are being served by an associated access processor (Eng column 4, lines 29-32).” However, Eng’s table that tracks wireless mobiles being served by the associated AP has little or nothing to do with a motivation for the claimed element of “determining at the wireless mobile communication station...whether or not packet data reception from [an] originator is desired,” as claimed. In particular, Eng’s table for tracking which mobile devices are serviced by the AP does not provide a motivation for one of the mobile devices to determine whether or not a data packet is desired from an originator (the element in question, for which Eng is being relied upon). Accordingly, it appears the combination of art relies upon an improper hindsight reconstruction in view of the Applicants’ invention.

Although the forgoing remarks have focused primarily on the independent claims, it will be appreciated that, for at least the foregoing reasons, all of the other rejections and assertions of record with respect to the independent and dependent claims are now moot, and therefore need not be addressed individually. However, in this regard, it should also be appreciated that Applicants do not necessarily acquiesce to any assertions in the Office Action that are not specifically addressed above, and hereby reserve the right to challenge those assertions at any appropriate time in the future, should the need arise, including any official notice.

Although it is not necessary to address the dependent claims or their corresponding rejections, Applicants will address some of these rejections. For example, with regard to Claims 3 and 15, it appears that the Examiner is taking Official Notice that the association of a network address with an identity is very common in mobile phones that associate a telephone number (address) with a name (identity). However, the recited claim elements actually require that an identity of an originator be acquired by the mobile station establishing a packet data session with the address translation server and requesting the translation of the network address to the corresponding identity, which extends beyond what the Examiner has asserted is commonly known. There also does not appear to be any motivation, nor is any asserted, for modifying the cited art with said functionality to read on the claims. Moreover, with regard to any direct or inferential official notice made in the last action, which was a Final Action, Applicants remind the Examiner that it is generally against accepted examination guidelines to finally reject a claim while relying on Official Notice. MPEP § 2144.03(A) (“While ‘official notice’ may be relied on, these circumstance should be rare when an application is under final rejection”).

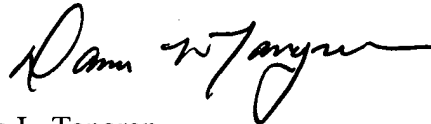
that a user can make either a confirmation or a rejection regarding reception of packet data from said originator having the displayed identity.

The other dependent claims and rejections thereto will not be further addressed at this time. It will be appreciated, however, that each of the pending claims 1-23 should be distinguished from the art of record for at least the foregoing reasons.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated this 1 day of February 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dana L. Tangren', with a stylized flourish at the end.

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